IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

SECOND APPEAL NO. 801 OF 2004

Office notes, office memoranda of Coram, appearances, Court's orders or directions and Registrar's orders.

Court's or Judge's orders.

Shri A.A.Kumbhakoni for the Appellant.

CORAM : ABHAY S.OKA, J.

DATED : 30th August, 2004.

P.C.:

1. Heard Shri Kumbhakoni for the Appellant.

2. The Appellant is relying upon the Will dated 21st January 1992. For the detailed reasons given by the Courts below and in particular paragraphs 6, 7 and 8 of the Judgment of the Appellant Court, the case made out by the Appellants as regards execution of the will has been rejected by the Courts below.

3. As far as Will dated 11th March 1992 set up by Respondent No.3 is concerned, there are findings of facts recorded by the Courts below that the execution of the said Will has been proved. After having perused the findings recorded by the Courts below, I find that there is neither any perversity nor illegally in the findings recorded by the

Courts below. The said findings are based on the oral and documentary evidence on record.

4. Shri Kumbhakoni, learned Counsel appearing for the Appellants relies upon the fact that the subsequent agreement dated 6th March 1993 was executed between the parties. In the present Second Appeal the dispute is confined only to the validity of the respective Wills set up by the parties. If the Appellant has acquired any rights on the basis of the said agreement, it is for him to take out appropriate proceedings in accordance with the law. Subject to the observations made above, the Second Appeal is dismissed with no order as to costs.

Judge.